

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA**

MARCUS DRUMMER,

Plaintiff,

v.

HOME DEPOT U.S.A., INC., d/b/a/ The  
Home Depot, a Delaware corporation,

Defendant.

No. 3:16-cv-5751

**COMPLAINT FOR DAMAGES**

Plaintiff MARCUS DRUMMER, by and through his attorney of record, STEPHANIE STOCKER and HENDERSON LAW GROUP, PLLC, alleges as follows:

**NATURE OF THE ACTION**

This is an action to correct the unlawful employment practice of age and race discrimination in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, *et. seq.* (“Title VII”), age discrimination in violation of Age Discrimination in Employment Act (“ADEA”), and retaliation in violation of 42 U.S.C. § 2000e-3 and RCW 49.60.210. This action seeks to provide relief to Plaintiff Marcus Drummer, who was adversely affected by such practice. Plaintiff contends Defendant Home Depot U.S.A., Inc. (“Home Depot”) discriminated against him by terminating his

1 employment based on his African-American race, his over 40 age, and his opposition to discriminatory  
2 practices.

### 3 **I. PARTIES**

4 1.1 Plaintiff Marcus Drummer at all relevant times was a resident of Thurston County,  
5 Washington. At all relevant times, Mr. Drummer was an employee within the meaning of 42 U.S.C.  
6 §§2000e-(f) and RCW 49.60.040.

8 1.2 At all relevant times, Mr. Drummer was an African American and over 40 years of age.

9 1.3 Defendant Home Depot is a Delaware corporation and has its principal place of business  
10 at 2455 Paces Ferry Road, Atlanta, Georgia.

11 1.4 At all relevant times, Defendant has continuously been and is now doing business in the  
12 State of Washington. At all relevant times, Defendant is an employer within the meaning of 42 U.S.C.  
13 §§2000e-(b) and RCW 49.60.040(11).

### 15 **II. PROCEDURAL REQUIREMENTS**

16 2.1 Plaintiff filed a timely charge of discrimination with the Equal Employment  
17 Opportunity Commission ("EEOC") and brings this action within ninety (90) days of the receipt of a  
18 Notice of Right to Sue, issued by the EEOC on June 13, 2016.

### 20 **III. JURISDICTION AND VENUE**

21 3.1 This court has jurisdiction over the subject matter of this action under 42 U.S.C. § 2000e-  
22 5(f)(3), 29 U.S.C. § 626(c), and has supplemental jurisdiction under 28 U.S.C. § 1367(a).

23 3.2 The matter in controversy in this action exceeds the sum or value of \$75,000.00, exclusive  
24 of interest and costs, and is between citizens of different states. Accordingly, this court also has subject  
25 matter jurisdiction pursuant to 28 U.S.C. § 1332(a)(1).  
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1 of Mr. Drummer's co-workers visited.

2 3.9 Mr. Drummer promptly reported the incident to Home Depot District Loss Prevention  
3 Department and Ms. Jenny Helme. No action was taken by Home Depot to address the complaint.  
4

5 3.10 Immediately thereafter, in March 2014 and May 2014, Mr. James Eccles issued Mr.  
6 Drummer a low rating for his Tumwater, WA store based on inconsistent standards from those used to  
7 evaluate other Home Depot Store Managers and all other stores in the Pacific Northwest Division. Mr.  
8 Eccles issued Mr. Drummer two disciplinary write-ups based on these inconsistent standards.  
9

10 3.11 During the same time period, between March 2014 and May 2014, Mr. Drummer and his  
11 store received high ratings in ALL areas from high-level Home Depot executives and other qualified  
12 Home Depot personnel other than Mr. Eccles.

13 3.12 On or about May 14, 2014, Mr. Drummer submitted a written complaint to Home Depot  
14 Senior Manager of the Western Division, Jeff Hughes, regarding disparate treatment from Mr. Eccles.  
15

16 3.13 On May 30, 2014, Mr. Drummer was terminated from Home Depot for "poor work  
17 performance" and a store appearance that "wasn't up to standards;" the same week that Mr. Drummer  
18 was awarded another diamond by Home Depot for his Home Depot diamond ring for the month of May  
19 2014 for achieving Exceptional Work Performance for his store appearance. Mr. Drummer received the  
20 diamond in the mail in early June 2014, just days after he had been terminated for "poor work  
21 performance."  
22

23 3.14 Home Depot filled Mr. Drummer's vacant position with a Caucasian male under 40 years  
24 of age – a candidate outside of Mr. Drummer's two protected classes.

#### 25 **IV. CAUSES OF ACTION**

26 4.1 Plaintiff hereby realleges the substance of sections I, II, and III with the same force and  
27 effect as though fully set forth herein, and apply those facts to each cause of action.  
28

**FIRST CAUSE OF ACTION**

**(Racial Discrimination in Violation of Title VII and RCW 49.60)**

4.2 The Defendant's conduct as alleged herein constitutes discrimination based on race in violation of Title VII, 42 U.S.C. § 2000e-2(a)(1), which prohibits an employer from discharging any individual because of such individual's race.

4.3 The Defendant's conduct as alleged herein constitutes discrimination based on race in violation of RCW 49.60.030 under the Washington Law Against Discrimination, which provides the right to hold employment without discrimination based on race.

4.4 As an African-American man, Plaintiff is a member of a class protected from discrimination under 42 U.S.C. § 2000e-2(a)(1) and RCW 49.60.030.

4.5 Plaintiff's employment termination in favor of a Caucasian candidate with similar or fewer qualifications than Plaintiff is a violation of 42 U.S.C. § 2000e-2(a)(1) and RCW 49.60.030.

4.6 Defendant's stated reasons for conduct as alleged above were not the true reasons, but instead were pretext to hide the Defendant's discriminatory animus.

**SECOND CAUSE OF ACTION**

**(Age Discrimination in Violation of ADEA and RCW 49.44)**

4.7 The Defendant's conduct as alleged herein constitutes discrimination based on age of employee in violation of the ADEA 29 U.S.C. § 623, which prohibits an employer from discharging any individual because of such individual's age.

4.8 The Defendant's conduct as alleged herein constitutes discrimination based on age of employee in violation of RCW 49.44.090, which prohibits an employer from discriminating against an individual who is forty years of age or older in terms, conditions, or privileges of employment.



1           4.17 Defendant's stated reasons for conduct as alleged above were not the true reasons, but  
2 instead were pretext to hide the Defendant's discriminatory animus.

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4                                   **V. RELIEF REQUESTED**

5           5.1 The Plaintiff hereby realleges the substance of paragraphs I, II, III, and IV and by this  
6 reference incorporates them herein.

7           5.2 Because of the Defendant's wrongful acts described above, the Plaintiff has suffered loss  
8 of wages, lost future income, lost earning ability, lost fringe benefits, substantial humiliation, mental and  
9 emotional distress, and other damages to be proved at trial.

10  
11           WHEREFORE, Plaintiff respectfully requests this Court grant him relief, including

- 12           a. Back pay for an amount to be proved at trial;
- 13           b. Damages for emotional distress and pain and suffering, and any medical expenses flowing  
14           therefrom, in an amount to be proved at trial;
- 15           c. Front pay in an amount to be proved at trial;
- 16           d. Damages for lost earning ability;
- 17           e. Liquidated damages, and interest on those damages calculated at the prevailing rate;
- 18           f. The Plaintiff's reasonable attorney fees pursuant to 42 U.S.C. § 2000e-5(k), 29 U.S.C. §  
19           626(b), and RCW 49.60.030(2);
- 20           g. Costs of suit as provided by 42 U.S.C. § 2000e-5(g) and RCW 49.60.030(2).
- 21           h. Prejudgment interest at the highest lawful rate;
- 22           i. Tax consequences;
- 23           j. Lost fringe benefits; and,
- 24           k. Such other and further relief as the Court may deem just and equitable.
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1 Dated: September 1, 2016.

2 HENDERSON LAW GROUP, PLLC

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